

1           IN THE UNITED STATES DISTRICT COURT  
2           MIDDLE DISTRICT OF GEORGIA  
3           (MACON DIVISION)  
4  
5           CERTUS BANK, N.A., as successor )  
6        by assignment to ATLANTIC        )  
7        SOUTHERN BANK,                  )  
8    )  
9           Plaintiff,                  )  
10   ) CIVIL ACTION FILE  
11        vs.                          )  
12                                      ) NO. 5:14-cv-00069-CAR  
13        GENE DUNWODY, JR., GENE DUNWODY, )  
14        SR., JACK W. JENKINS, W. TONY    )  
15        LONG, and L. ROBERT LOVETT,     )  
16                                        )  
17        Defendants.                 )  
18  
19  
20  
21  
22  
23  
24  
25

---

11           DEPOSITION OF JACK W. JENKINS  
12           OCTOBER 30, 2014  
13           1:30 P.M.

---



CERTIFIED COURT REPORTERS

The Pinnacle, Suite 500 • 3455 Peachtree Road, N.E. • Atlanta, GA 30326 • [www.premierreporting.com](http://www.premierreporting.com)  
404.237.1990  
800.317.5773

1           IN THE UNITED STATES DISTRICT COURT  
2           MIDDLE DISTRICT OF GEORGIA  
3           (MACON DIVISION)

4       CERTUS BANK, N.A., as successor )  
5       by assignment to ATLANTIC       )  
6       SOUTHERN BANK,                  )  
7       Plaintiff,                      )  
8       vs.                             ) CIVIL ACTION FILE  
9       GENE DUNWODY, JR., GENE DUNWODY,) NO. 5:14-cv-00069-CAR  
10      SR., JACK W. JENKINS, W. TONY   )  
11      LONG, and L. ROBERT LOVETT,     )  
12      Defendants.                     )

---

13           DEPOSITION OF JACK W. JENKINS  
14           OCTOBER 30, 2014  
15           1:30 P.M.

---

1 APPEARANCES OF COUNSEL

2 On behalf of the Plaintiff:

3 Sean Gordon, Esq.  
4 Greenberg Traurig  
Terminus 400  
5 3333 Piedmont Road, NE  
Suite 2500  
Atlanta, Georgia 30305  
6 gordonsa@gtlaw.com  
7 678-553-2100

8 On behalf of the Defendants:

9 Wesley J. Boyer, Esq.  
Katz, Flatau & Boyer  
10 355 Cotton Avenue  
Macon, Georgia 31201  
wjboyer\_2000@yahoo.com  
11 478-742-6481

12 \* \* \*

13  
14 MR. SMITH: We're on the record in the  
15 case of CertusBank NA, a successor by  
16 assignment to Atlanta Southern Bank versus Gene  
17 Dunwody, Jr., et al., Case No.

18 5:14-cv-00069-CAR.

19 This is the deposition of Jack W. Jenkins.  
20 This deposition is being taken by notice and  
21 agreement of counsel and the parties for  
22 purposes of discovery and all other purposes  
23 permitted by the Federal Rules of Civil  
24 Procedure.

25 Present in the room is Mr. Jenkins and his

Page 3

1 counsel, Mr. Boyer.

2 Can you please swear the witness.

3 JACK W. JENKINS,

4 having been first duly sworn, was deposed and testified as  
5 follows:

6 EXAMINATION

7 BY MR. SMITH:

8 Q Mr. Jenkins, what is your current home and  
9 work address?

10 A Current home, 2649 Stanislaus Circle,  
11 Macon 31204. Work is 327 3rd Street, Macon 31202,  
12 I think.

13 Q Were you a member of Capricorn Center,  
14 LLC?

15 A Yes.

16 Q What was the purpose of that entity? What  
17 was its business purpose?

18 A To develop property in Macon downtown on  
19 MLK.

20 Q Are you familiar with an entity named 615  
21 5th Street, LLC?

22 A I'm not sure about that now.

23 (Whereupon, previously marked Exhibit 24  
24 entered.)

25 BY MR. SMITH:

1           Q     I'm handing you what has been marked as  
2     Exhibit 24. This is a letter that an attorney at  
3     Greenberg-Traurig sent to Mr. Boyer, your counsel.

4                 Have you ever seen this E-mail?

5           A     Don't think so.

6           Q     This E-mail references a delay of  
7     foreclosure in exchange for receipt of a \$50,000  
8     payment on several entities.

9                 Do you see that?

10          A     Uh-huh, yes, sir.

11          Q     And one of those entities is 615 5th  
12     Street, LLC.

13                 Do you know if you were a member of that  
14     entity?

15          A     I don't know. I don't think so. I -- I  
16     just remember Capricorn Center, LLC was  
17     my understanding -- that was my understanding of my  
18     involvement.

19          Q     Okay. Did Capricorn Center, LLC take out  
20     loans from Atlantic Southern Bank?

21          A     Yes.

22          Q     To your knowledge, were those loans fully  
23     paid back?

24          A     I'm not sure the status of -- of what was  
25     paid back or how much was paid back.

1 Q Okay. Did you guarantee those loans?

2 A I think parts -- to a limited extent I  
3 think I did.

4 (Whereupon, previously marked Exhibit 6  
5 entered.)

6 BY MR. SMITH:

7 Q Okay. If you could turn to Exhibit 6,  
8 please.

9 This is a Guaranty dated April 16th,  
10 2010 that you signed in favor of Atlantic Southern  
11 Bank, correct?

12 A Yes.

13 Q Is that your signature on Page 3?

14 A Yes.

15 Q Are those your initials on each of the  
16 pages?

17 A Yes.

18 Q Is this a true and correct copy of the  
19 document that you signed?

20 A I believe so.

21 Q This document references, on the first  
22 page, a Promissory Note dated April 16th, 2010  
23 from Capricorn Center in the amount of \$176,452.13.

24 Do you see that?

25 A Yes.

1           Q     Was it your understanding, when you signed  
2     this, that you were guaranteeing that loan up to the  
3     cap that's referenced in Section 2?

4           A     Right, up to a -- there was a liability, a  
5     \$33,045 limit to my liability or cap to my liability  
6     is my understanding.

7           Q     You're an attorney, correct?

8           A     Yes.

9           Q     And there's some other language in that  
10    sentence, as well. It says: "My liability will not  
11    exceed \$33,045 of the principal amount outstanding  
12    at default plus accrued interest, attorney's fees  
13    and collection costs, when allowed by law, and all  
14    other costs, fees and expenses agreed to be paid  
15    under all agreements evidencing the debt and  
16    securing payment of the debt."

17                 Based on that language, was it your  
18    understanding, when you signed this, that the cap  
19    was to be applied to the principal amount, but that  
20    there could be accrued interest and attorney's  
21    fees and collection costs on top of that, correct?

22           A     Right, uh-huh, yes.

23                 (Whereupon, previously marked Exhibit 15  
24    entered.)

25                 BY MR. SMITH:

1 Q Okay. If you could turn to Exhibit 15,  
2 please.

3 A Okay.

4 Q This is another Guaranty that's dated  
5 April 28th, 2011 that you signed in favor of  
6 Atlantic Southern Bank, correct?

7 A Yes.

8 Q Is that your signature on Page 3?

9 A Yes.

10 Q Are those your initials at the bottom of  
11 each page?

12 A Yes.

13 Q Is this a true and correct copy of the  
14 Guaranty that you signed?

15 A I believe so.

16 Q This Guaranty, in Section 2, references a  
17 Promissory Note No. 402-06-4300 dated April 28th,  
18 2011 from Capricorn, LLC in the amount of  
19 \$1,286,369.29.

20 Is it your understanding, when you signed  
21 this, that you were guarantying that note up to the  
22 liability cap that's referenced in Section 2?

23 A Yes.

24 Q Okay. And like the other Guaranty, that  
25 has a specific number for a cap amount for the

1 principal, and in this case it says \$241,280; is  
2 that correct?

3 A Right.

4 (Whereupon, previously marked Exhibit 21  
5 entered.)

6 BY MR. SMITH:

7 Q Okay. If you could turn to Exhibit 21,  
8 please.

9 A Okay.

10 Q This is a letter dated August 7, 2012 that  
11 was sent to you among other parties.

12 Do you recall receiving a copy of this  
13 letter?

14 A I think so, yes.

15 Q Is this a true and correct copy of the  
16 letter that you received, as far as you can tell?

17 A Yes.

18 Q There are amounts asserted as outstanding  
19 on Page 2 of the letter --

20 A Right.

21 Q -- under the \$1.2 million note, roughly  
22 \$1.2 million note.

23 As of August 7, 2012, do you have any  
24 reason to believe that the numbers that are asserted  
25 here are either correct or incorrect?

1 A I don't know if it's correct or incorrect.

2 Q Okay. And that's what I was asking you.

3 You wouldn't have any reason to believe  
4 it's incorrect?

5 A That's right.

6 Q And you wouldn't have any reason to  
7 believe that it's correct?

8 A That's true.

9 Q You have no knowledge either way?

10 A Right.

11 (Whereupon, previously marked Exhibit 22  
12 entered.)

13 BY MR. SMITH:

14 Q If you could turn to Exhibit 22, please.

15 This is another letter dated  
16 August 17th, 2012 sent to you by Michael Wing of  
17 my firm Greenberg-Traurig.

18 Do you recall receiving this letter?

19 A Yes.

20 Q Is this a true and correct copy of the  
21 letter that you received?

22 A As far as I know.

23 Q And with regard to the 176,445.13 note to  
24 Capricorn or that Capricorn signed, do you have any  
25 reason to believe that the amounts that are asserted

1 as outstanding as of August 17, 2012 are incorrect?

2 A No.

3 Q Do you have any idea when the last payment  
4 on either of these two loans was made?

5 A No.

6 Q And, again, you're just not sure what  
7 amounts, if any, are outstanding, as we sit here  
8 today, under these loans?

9 A That's right.

10 MR. SMITH: I don't have any other  
11 questions.

12 MR. BOYER: I don't have any questions.

13 MR. SMITH: The deposition of Mr. Jenkins  
14 is concluded.

15 Thank you, Mr. Jenkins.

16 THE WITNESS: You're welcome.

17 (Deposition Concluded)

18

19

20

21

22

23

24

25

1 C E R T I F I C A T E

2 - - - - -

3 STATE OF GEORGIA:

4 FULTON COUNTY:

5 I hereby certify that the foregoing  
6 transcript was taken down as stated in the caption,  
7 and the questions and answers thereto were reduced  
8 to typewriting under my direction; that the  
9 foregoing pages 1 through 10 represent a true and  
10 correct transcript of the evidence given upon said  
11 hearing, and I further certify that I am not a  
12 relative or employee or attorney or counsel of any  
13 of the parties, nor am I a relative or employee of  
14 such attorney or counsel, nor am I financially  
15 interested in the action.

16 This the 1st day of December, 2014.

17

18 \_\_\_\_\_  
19 KELLY A. EMERY, CCR-B-941  
20  
21  
22  
23  
24  
25

<p><b>\$</b></p> <p><b>\$176,452.13</b> 5:23</p> <p><b>\$33,045</b> 6:5,11</p> <p><b>\$50,000</b> 4:7</p> <hr/> <p><b>1</b></p> <p><b>15</b> 6:23</p> <p><b>16th</b> 5:9,22</p> <hr/> <p><b>2</b></p> <p><b>2</b> 6:3</p> <p><b>2010</b> 5:10,22</p> <p><b>24</b> 3:23 4:2</p> <p><b>2500</b> 2:5</p> <p><b>2649</b> 3:10</p> <hr/> <p><b>3</b></p> <p><b>3</b> 5:13</p> <p><b>30305</b> 2:5</p> <p><b>31201</b> 2:10</p> <p><b>31202</b> 3:11</p> <p><b>31204</b> 3:11</p> <p><b>327</b> 3:11</p> <p><b>3rd</b> 3:11</p> <hr/> <p><b>4</b></p> <p><b>400</b> 2:4</p> <p><b>478-742-6481</b> 2:11</p> <hr/> <p><b>5</b></p> <p><b>5:14-cv-00069-car</b> 2:18</p> <p><b>5th</b> 3:21 4:11</p> <hr/> <p><b>6</b></p> <p><b>6</b> 5:4,7</p> <p><b>615</b> 3:20 4:11</p>	<p><b>A</b></p> <p><b>accrued</b> 6:12,20</p> <p><b>address</b> 3:9</p> <p><b>agreed</b> 6:14</p> <p><b>agreement</b> 2:21</p> <p><b>agreements</b> 6:15</p> <p><b>allowed</b> 6:13</p> <p><b>amount</b> 5:23 6:11,19</p> <p><b>APPEARANCES</b> 2:1</p> <p><b>applied</b> 6:19</p> <p><b>April</b> 5:9,22</p> <p><b>assignment</b> 2:16</p> <p><b>Atlanta</b> 2:5,16</p> <p><b>Atlantic</b> 4:20 5:10</p> <p><b>attorney</b> 4:2 6:7</p> <p><b>attorney's</b> 6:12,20</p> <p><b>Avenue</b> 2:9</p> <hr/> <p><b>B</b></p> <p><b>back</b> 4:23,25</p> <p><b>Bank</b> 2:16 4:20 5:11</p> <p><b>Based</b> 6:17</p> <p><b>behalf</b> 2:2,7</p> <p><b>Boyer</b> 2:8,9 3:1 4:3</p> <p><b>business</b> 3:17</p> <hr/> <p><b>C</b></p> <p><b>cap</b> 6:3,5,18</p> <p><b>Capricorn</b> 3:13 4:16,19 5:23</p> <p><b>case</b> 2:15,17</p> <p><b>Center</b> 3:13 4:16,19 5:23</p> <p><b>Certusbank</b> 2:15</p> <p><b>Circle</b> 3:10</p> <p><b>Civil</b> 2:23</p> <p><b>collection</b> 6:13,21</p>	<p><b>copy</b> 5:18</p> <p><b>correct</b> 5:11,18 6:7,21</p> <p><b>costs</b> 6:13,14,21</p> <p><b>Cotton</b> 2:9</p> <p><b>counsel</b> 2:1,21 3:1 4:3</p> <p><b>current</b> 3:8,10</p> <hr/> <p><b>D</b></p> <p><b>dated</b> 5:9,22</p> <p><b>debt</b> 6:15,16</p> <p><b>default</b> 6:12</p> <p><b>Defendants</b> 2:7</p> <p><b>delay</b> 4:6</p> <p><b>deposed</b> 3:4</p> <p><b>deposition</b> 2:19,20</p> <p><b>develop</b> 3:18</p> <p><b>discovery</b> 2:22</p> <p><b>document</b> 5:19,21</p> <p><b>downtown</b> 3:18</p> <p><b>duly</b> 3:4</p> <p><b>Dunwody</b> 2:17</p> <hr/> <p><b>E</b></p> <p><b>E-mail</b> 4:4,6</p> <p><b>entered</b> 3:24 5:5 6:24</p> <p><b>entities</b> 4:8,11</p> <p><b>entity</b> 3:16,20 4:14</p> <p><b>Esq</b> 2:3,8</p> <p><b>et al</b> 2:17</p> <p><b>evidencing</b> 6:15</p> <p><b>EXAMINATION</b> 3:6</p> <p><b>exceed</b> 6:11</p> <p><b>exchange</b> 4:7</p> <p><b>Exhibit</b> 3:23 4:2 5:4,7 6:23</p> <p><b>expenses</b> 6:14</p>	<p><b>extent</b> 5:2</p> <hr/> <p><b>F</b></p> <p><b>familiar</b> 3:20</p> <p><b>favor</b> 5:10</p> <p><b>Federal</b> 2:23</p> <p><b>fees</b> 6:12,14,21</p> <p><b>Flatau</b> 2:9</p> <p><b>foreclosure</b> 4:7</p> <p><b>fully</b> 4:22</p> <hr/> <p><b>G</b></p> <p><b>Gene</b> 2:16</p> <p><b>Georgia</b> 2:5,10</p> <p><b>Gordon</b> 2:3</p> <p><b>gordonsa@gtlaw.com</b> 2:6</p> <p><b>Greenberg</b> 2:3</p> <p><b>Greenberg-traurig</b> 4:3</p> <p><b>guarantee</b> 5:1</p> <p><b>guaranteeing</b> 6:2</p> <p><b>Guaranty</b> 5:9</p> <hr/> <p><b>H</b></p> <p><b>handing</b> 4:1</p> <p><b>home</b> 3:8,10</p> <hr/> <p><b>I</b></p> <p><b>initials</b> 5:15</p> <p><b>interest</b> 6:12,20</p> <p><b>involvement</b> 4:18</p> <hr/> <p><b>J</b></p> <p><b>Jack</b> 2:19 3:3</p> <p><b>Jenkins</b> 2:19,25 3:3,8</p> <p><b>Jr</b> 2:17</p>	<p><b>K</b></p> <p><b>Katz</b> 2:9</p> <p><b>knowledge</b> 4:22</p> <hr/> <p><b>L</b></p> <p><b>language</b> 6:9,17</p> <p><b>law</b> 6:13</p> <p><b>letter</b> 4:2</p> <p><b>liability</b> 6:4,5,10</p> <p><b>limit</b> 6:5</p> <p><b>limited</b> 5:2</p> <p><b>LLC</b> 3:14,21 4:12,16,19</p> <p><b>loan</b> 6:2</p> <p><b>loans</b> 4:20,22 5:1</p> <hr/> <p><b>M</b></p> <p><b>Macon</b> 2:10 3:11,18</p> <p><b>marked</b> 3:23 4:1 5:4 6:23</p> <p><b>member</b> 4:13</p> <p><b>MLK</b> 3:19</p> <hr/> <p><b>N</b></p> <p><b>NA</b> 2:15</p> <p><b>named</b> 3:20</p> <p><b>NE</b> 2:4</p> <p><b>Note</b> 5:22</p> <p><b>notice</b> 2:20</p> <hr/> <p><b>O</b></p> <p><b>outstanding</b> 6:11</p> <hr/> <p><b>P</b></p> <p><b>pages</b> 5:16</p> <p><b>paid</b> 4:23,25 6:14</p> <p><b>parties</b> 2:21</p>
--	--	---	---	--

<b>parts</b> 5:2 <b>payment</b> 4:8 6:16 <b>permitted</b> 2:23 <b>Piedmont</b> 2:4 <b>Plaintiff</b> 2:2 <b>Present</b> 2:25 <b>previously</b> 3:23 5:4 6:23 <b>principal</b> 6:11,19 <b>Procedure</b> 2:24 <b>Promissory</b> 5:22 <b>property</b> 3:18 <b>purpose</b> 3:16,17 <b>purposes</b> 2:22	<b>status</b> 4:24 <b>Street</b> 3:11,21 4:12 <b>successor</b> 2:15 <b>Suite</b> 2:5 <b>swear</b> 3:2 <b>sworn</b> 3:4
	<b>T</b>
	<b>Terminus</b> 2:4 <b>testified</b> 3:4 <b>top</b> 6:21 <b>Traurig</b> 2:3 <b>true</b> 5:18 <b>turn</b> 5:7
	<b>R</b>
<b>receipt</b> 4:7 <b>record</b> 2:14 <b>referenced</b> 6:3 <b>references</b> 4:6 5:21 <b>remember</b> 4:16 <b>Road</b> 2:4 <b>room</b> 2:25 <b>Rules</b> 2:23	<b>U</b>
	<b>uh-huh</b> 4:10 6:22 <b>understanding</b> 4:17 6:1,6,18
	<b>V</b>
	<b>versus</b> 2:16
	<b>W</b>
	<b>Wesley</b> 2:8 <b>wjboyer_2000@ yahoo.com</b> 2:10 <b>work</b> 3:9,11
	<b>S</b>
<b>Sean</b> 2:3 <b>Section</b> 6:3 <b>securing</b> 6:16 <b>sentence</b> 6:10 <b>signature</b> 5:13 <b>signed</b> 5:10,19 6:1, 18 <b>sir</b> 4:10 <b>SMITH</b> 2:14 3:7,25 5:6 6:25 <b>Southern</b> 2:16 4:20 5:10 <b>Stanislaus</b> 3:10	